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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,797	12/11/2001	Gholam-Reza Zadno-Azizi	VGEN.006A	2037

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EXAMINER

JACKSON, SUZETTE JAMIE

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 04/04/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/021,797	Applicant(s) ZADNO-AZIZI ET AL.	
	Examiner Jackson J Suzette	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2001 and 18 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5 and 6 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6-7</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of 3/18/03 in Paper No. 9 is acknowledged.

Applicant elects species A corresponding to Figures 3-17, 17.1-17.3 and 40.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Laguette et al. 6,478,821 which discloses the invention as claimed comprising: An intraocular lens with a first optic (112); a pair of elongate members/haptics extending from the first optic (118) wherein the haptics comprise a shape memory alloy particularly nitinol (see col. 6, lines 51-53).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laguette et al. in view of Turley 4,892,543. Laguette et al. has been disclosed above with regards to claims 1-3 and shape memory nitinol members however Laguette et al. does not disclose the additional structure. Turley teaches the addition structure as claimed comprising: first and second translation members together to form an anterior biasing elements (70-72); wherein the lens further comprises a posterior biasing elements (54) connected to the anterior biasing element; wherein the posterior biasing element has third and fourth translation members (54 top = third and 54 bottom = fourth see figure 2), said third translation member connected to the first translation member at a first apex (80) of the lens, said fourth translation member connected to the second translation member at a second apex of the lens (82); a posterior viewing element (48) connected to the third and fourth biasing elements the first optic and posterior viewing element being aligned along an optical axis of the lens; and wherein the anterior and posterior biasing elements bias the first optic and the posterior viewing element apart along the optical axis (see element 5 in figure 2); the first optic (44 total) and the posterior viewing element being moveable relative to each other to produce a range of accommodation upon implantation of the lens in the eye of the patient.

Allowable Subject Matter

6. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sarfarazi 6,488,708; Zadno-Azizi et al. 6,327,772 ; Portney 6,238,433 ; Christie et al. 4,932,966 ; and Tsutomu Hara et al. JP 02126847 all show related material.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzette J. Jackson whose work schedule is Monday-Friday 9-6:30 off every other Friday and whose telephone number is 703-308-6516.

9. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3580.

10. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.


Suzette J. Jackson
01 April 2003